

REMARKS

A total of 33 claims remain in the present application. The foregoing amendments are presented in response to the Office Action mailed August 7, 2006, wherefore reconsideration of this application is requested.

By way of the above-noted amendments, claims 1 and 17 have been amended to more clearly define features of the present invention. In particular, the present invention provides methods and apparatus which enable the QoS treatment of data traffic within a VPN tunnel to be changed without having to renegotiate the security association of the VPN tunnel. Thus, a database is queried to obtain QoS information indicative of the desired new QoS treatment; and the QoS information is sent through the tunnel to a VPN gateway at the opposite end. Thereafter, a QoS marker in accordance with the QoS information can be applied to the data traffic within the tunnel. Claims 1 and 17 have been amended to emphasize these features of the present invention. Clearly, no new subject matter has been introduced.

Referring now to the text of the Office Action:

- claims 1 and 17 stand rejected under 35 U.S.C. § 102(e) or 103(a) as being unpatentable over the teaching of United States Patent No. 6,912,232 (Duffield et al);
- claims 1 and 17 stand rejected under 35 U.S.C. § 102(e) or 103(a) as being unpatentable over the teaching of United States Patent No. 6,912,232 (Duffield et al) in view of United States Patent No. 6,708,209 (Ebata et al.);
- claims 2, 6, 8-16, 18, 22, 23, 25-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teaching of United States Patent No. 6,912,232 (Duffield et al) in view of United States Patent No. 6,708,209 (Ebata et al.);
- claims 3-5 and 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teaching of United States Patent No. 6,912,232 (Duffield et al) in view of United States Patent No. 6,708,209 (Ebata et al.), and further in view of United States Patent No. 6,765,927 (Martin); and

- claims 7 and 24 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As an initial matter, applicant appreciates the Examiner's indication of allowable subject matter in claims 7 and 24. The Examiner's claim rejections under 35 U.S.C. §§ 102 and 103 are believed to be traversed in view of the following discussion.

As pointed out by the Examiner, Duffield teaches that QoS markers are attached to traffic sent through a hose. To the extent that the QoS markers correlate with the claimed QoS information, it would follow that the QoS information is being sent through the VPN tunnel. In the Detailed Action, the Examiner asserts this attachment of QoS markers to IP packets meets the claimed limitations defined in subclauses 2 and 3 of claims 1 and 17. Applicant respectfully disagrees.

In Claims 1 and 17, the sending of QoS information through the VPN tunnel to a VPN gateway at the opposite end, and the attachment of QoS markers to traffic within the tunnel, are explicitly defined as two independent steps. The mere fact that these steps are separately defined, unambiguously indicates that these steps cannot be combined into one and the same operation.

Accordingly, a prior art teaching (such as in Duffield, for example) that attaches a QoS marker to traffic within a VPN tunnel might be properly applied to subclause 3 of claims 1 and 17. However, having done so, it is necessary to find a prior art teaching of sending QoS information through the tunnel, independently of that step. Duffield provides no such teaching, and thus cannot possibly anticipate claims 1 and 17.

With respect to possible rejections under 35 U.S.C. § 103, as noted above, Duffield et al do not provide any teaching or suggestion that QOS information is sent "through the VPN tunnel to a VPN gateway at an opposite end of the VPN Tunnel", independently of attaching a QoS marker to traffic within the tunnel, as required by claims 1 and 17. Furthermore, Duffield provides no motivation for making any such modification.

None of the other cited references provide the missing teaching.

For at least the foregoing reasons, it is respectfully submitted that the presently claimed invention is clearly distinguishable over the teachings of the cited references, taken alone or in any combination. Thus it is believed that the present application is in condition for allowance, and early action in that respect is courteously solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,

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